

1 HONORABLE RICHARD A. JONES  
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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
10 AT SEATTLE

11 KATRINA RUCKER,

12 Plaintiff,

13 v.

14 HEALTHPOINT,

Defendant.

Case No. 22-00621-RAJ

**ORDER DENYING  
APPLICATION  
TO PROCEED IN FORMA  
PAUPERIS AND DISMISSING  
CASE**

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16 This matter comes before the Court on Plaintiff's Application to Proceed *In Forma*  
17 *Pauperis*, her Motion for Temporary Restraining Order, and on review of the proposed  
18 complaint. This is the second case filed by Plaintiff regarding alleged mistreatment by  
19 health care providers. *See Rucker v. State of Washington*, Case No. 22-cv-5298-RJB  
20 (W.D. Wash. May 3, 2022). The Court has considered the pleadings filed regarding the  
21 application and motion and the remaining file and **DISMISSES** the complaint for lack of  
22 jurisdiction. Plaintiff's Application to proceed *In Forma Pauperis* and her Motion for  
23 Temporary Restraining Order are also **DENIED**. Dkt. 1; Dkt. 2.

24 **I. Sua Sponte Screening Pursuant to 28 USC § 1915(e)(2)(B)**

25 On May 5, 2022, Plaintiff filed a proposed civil complaint and an Application to  
26 Proceed in Forma Pauperis ("IFP"). Dkt. 1. She also filed a Motion for Temporary  
27 Restraining Order ("TRO"). Dkt. 2. In her motion for a TRO, Plaintiff moves for an  
28 ORDER – 1

1 “anti-harassment order to prohibit any Healthpoint employee ... from any form of  
 2 contact” with her and to cease reading her emails, listening in on her phone calls, and to  
 3 “remove all listening and/or monitoring devices involving [her].” Dkt. 2.

4 When a plaintiff seeks leave to proceed IFP, pursuant to 28 U.S.C. § 1915(a), the  
 5 complaint is subject to *sua sponte* review, and mandatory dismissal, if it is “frivolous,  
 6 malicious, fail[s] to state a claim upon which relief may be granted, or seek[s] monetary  
 7 relief from a defendant immune from such relief.” *See* 28 U.S.C. § 1915(e)(2)(B);  
 8 *Coleman v. Tollefson*, 135 S. Ct. 1759, 1763 (2015) (pursuant to 28 U.S.C. § 1915(e)(2)  
 9 “the court shall dismiss the case at any time if the court determines that ... (B) the action  
 10 or appeal ... (ii) fails to state a claim on which relief may be granted.”).

11       **A.     Jurisdiction**

12 Plaintiff has the burden of demonstrating jurisdiction by showing “the existence of  
 13 whatever is essential to federal jurisdiction.” *Smith v. McCullough*, 270 U.S. 456, 459  
 14 (1926). “If the court determines at any time that it lacks subject-matter jurisdiction, the  
 15 court must dismiss the action.” Fed. R. Civ. P. 12(h)(3); *see also Cal. Diversified*  
 16 *Promotions, Inc. v. Musick*, 505 F.2d 278, 280 (9th Cir. 1974) (“It has long been held that  
 17 a judge can dismiss *sua sponte* for lack of jurisdiction”). District courts possess federal  
 18 question jurisdiction over all claims “arising under the Constitution, laws, or treaties of  
 19 the United States.” 28 U.S.C. § 1331. “The presence or absence of federal question  
 20 jurisdiction is governed by the ‘well-pleaded complaint’ rule, which provides that federal  
 21 question jurisdiction exists only when a federal question is presented on the face of the  
 22 plaintiff’s properly pleaded complaint.” *California v. United States*, 215 F.3d 1005, 1014  
 23 (9th Cir. 2000). District courts also possess subject-matter jurisdiction when the  
 24 requirements for “diversity of citizenship” are met under 28 U.S.C. § 1332. To establish  
 25 diversity jurisdiction, no defendant must have the same citizenship as any plaintiff, and  
 26 the amount in controversy must exceed \$75,000, exclusive of interest and costs. *Id.*

1        After reviewing the pleadings, the Court concludes that it lacks jurisdiction.  
2 Plaintiff references a “violation of civil rights, federal right to decide and make life  
3 choices removed without cause or merit.” Dkt. 1-1. Her complaint does not otherwise  
4 identify a provision of the U.S. Constitution or any federal statutory right that has been  
5 violated. *Baker v. Carr*, 369 U.S. 186, 198 (1962); *D.G. Rung Indus., Inc. v. Tinnerman*,  
6 626 F. Supp. 1062, 1063 (W.D. Wash. 1986). This fails to establish federal question  
7 jurisdiction under the well pleaded complaint rule. Plaintiff also fails to meet the  
8 requirements for diversity jurisdiction because Plaintiff and Defendant are both residents  
9 of Washington. Accordingly, the action is **DISMISSED**.

10        **B.      Review of the Complaint**

11        Even if it had jurisdiction, the Court would also be required to dismiss the  
12 complaint. The Court is required to dismiss an *in forma pauperis* plaintiff’s case if the  
13 Court determines that “the action . . . (i) is frivolous or malicious; (ii) fails to state a claim  
14 on which relief may be granted; or (iii) seeks monetary relief against a defendant who is  
15 immune from such relief.” 28 U.S.C. § 1915(e)(2)(B); *see also Lopez v. Smith*, 203 F.3d  
16 1122, 1129 (9th Cir. 2000) (“[S]ection 1915(e) applies to all in forma pauperis  
17 complaints, not just those filed by prisoners.”).

18        The complaint is largely the same as the one dismissed in *Rucker v. State of*  
19 *Washington*, Case No. 22-cv-5298-RJB (W.D. Wash. May 3, 2022). This complaint  
20 replaces seemingly replaces all references to the State of Washington with Healthpoint  
21 and attaches a nearly identical “Statement of Claim” to the proposed complaint. In these  
22 two pleadings, which will be construed together as the proposed complaint, Plaintiff  
23 alleges that a “mentally ill, homosexual,” black, male employee of the Healthpoint has  
24 been stalking her and “wants to ‘be [her].’ ” Dkt. 2 at 1. She asserts that he has access to  
25 “listening technology” that he uses as a means to “mentally and physically torture [her]  
26 person.” *Id.* Plaintiff maintains that she has reported his behavior and that of “other  
27 unauthorized civilians” to Healthpoint and it refuses to respond. *Id.* She states that she is  
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1 “in hiding, unable to find a safe place to live, unable to find work, ... attend church ... and  
2 even not able to get medical care.” *Id.*

3 In support of her complaint, Plaintiff alleges that, in 2020, the Healthpoint  
4 employee “entered [her] medical appointment without [her] consent and began having  
5 sex with the medical provider ... in the middle of the appointment.” Dkt. 2 at 2. She  
6 alleges that she changed medical providers and he followed her there. *Id.* She says that  
7 this employee and her brother then tried to have her committed to a mental institution. *Id.*  
8 at 2. She asserts that she passed a competency evaluation, but he and a panel of doctors  
9 are still telling people they are going to “lock her up.” *Id.* Plaintiff then alleges that this  
10 Healthpoint employee contacted out-of-state family, pretended to be a doctor, lied about  
11 her, and paid them with “money, drugs,” and “sexual favors (with men and women ...) to  
12 misrepresent [her] physical and mental status.” *Id.* She maintains that Healthpoint  
13 employees and associates placed cameras in her living space, have been reading her  
14 emails, listening to her phone calls and contacting everyone she encounters and telling  
15 them that she was “mentally retarded, crazy, insane ‘his’ ward, and they were required to  
16 wear a Washington State listening device in [her] presence.” *Id.* Plaintiff contends that as  
17 a result, she has suffered physical pain, can’t find a place to live, work or worship, or get  
18 medical care. *Id.* at 3. She identifies her claim as “violation of civil rights” and seeks  
19 \$1,000,000 in damages. Dkt. 1-1.

20 After review, the Court concludes that the complaint is frivolous. While the facts  
21 alleged in a complaint should generally be accepted as true for purposes of entering a  
22 judgment on the pleadings, clearly baseless factual contentions may be dismissed as  
23 frivolous under section 1915. *Denton v. Hernandez*, 504 U.S. 25, 27 (1992). Section  
24 1915(d) accords judges the unusual power to pierce the veil of the complaint’s factual  
25 allegations and dismiss those claims whose factual contentions are clearly baseless. *Id.* at  
26 31. A finding of factual frivolousness is appropriate when the facts alleged rise to the  
27 level of the irrational or the wholly incredible, whether or not there are judicially  
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1 noticeable facts available to contradict them. *Id.* Such a finding is appropriate here given  
2 Plaintiff's allegations.

3 **C. Standard for Granting Application for IFP**

4 The district court may permit indigent litigants to proceed IFP upon completion of  
5 a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). However, the court has broad  
6 discretion in denying an application to proceed IFP. *Weller v. Dickson*, 314 F.2d 598 (9th  
7 Cir. 1963), *cert. denied* 375 U.S. 845 (1963). A district court may deny leave to proceed  
8 IFP at the outset if it appears from the face of the proposed complaint that the action is  
9 frivolous or without merit. *Minetti v. Port of Seattle*, 152 F.3d 1113 (9th Cir. 1998),  
10 *quoting Tripati v. First Nat'l Bank & Trust*, 821 F.2d 1368, 1370 (9th Cir. 1987).

11 Plaintiff states that she has \$751 in income and no assets. Dkt. 1. But, as stated  
12 above, the Court lacks jurisdiction to consider the Plaintiff's claim for damages. Further,  
13 based upon the above analysis of the deficiencies in the proposed complaint, the Court  
14 **DENIES** Plaintiff's application to proceed IFP. The proposed complaint also provides no  
15 legal ground for the Court to grant the TRO. Therefore, the pending motion for TRO is  
16 also **DENIED**.

17 Accordingly, it is ORDERED that:

18 (1) Plaintiff's Application to Proceed IFP (Dkt. 1) IS **DENIED**;  
19 (2) Plaintiff's Motion for a Temporary Restraining Order (Dkt. 2) IS **DENIED**;  
20 (3) The case is **DISMISSED**.

21 DATED this 11th day of May, 2022.

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The Honorable Richard A. Jones  
United States District Judge